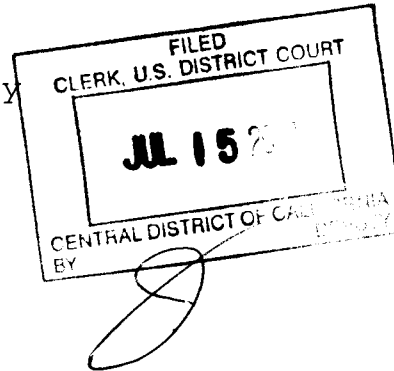


ORIGINAL

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8 Attorneys for Plaintiff
UNITED STATES OF AMERICA

9 UNITED STATES DISTRICT COURT

10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,)
12 Plaintiff,)
13 v.)
14 ANDREW K. PROCTOR,)
15 Defendant.)
16)
17)

No. CR04-615CBM
PLEA AGREEMENT FOR DEFENDANT
ANDREW K. PROCTOR

18 1. This constitutes the plea agreement between defendant
19 Andrew K. Proctor ("defendant") and the United States Attorneys'
20 Offices for the Southern District of Florida and the Central
21 District of California (collectively "the USAO") in the
22 above-captioned case. This agreement is limited to the USAO and
23 does not bind any other federal, state, or local prosecuting,
24 administrative, or regulatory authorities.

25 PLEA

26 2. Defendant agrees to waive venue and plead guilty,
27 pursuant to Federal Rule of Criminal Procedure 20, to Count I of
28 the indictment filed in Case No. 02-80097 CR-Hurley in the

1 Southern District of Florida, which count charges the defendant
2 with conspiracy to commit wire and securities fraud, in violation
3 of Title 18, United States Code, Sections 371, 1343 and 1346 and
4 Title 15, United States Code, Sections 78j(b) and 78ff. The
5 government agrees to dismiss Count II of the indictment with
6 respect to this defendant after sentencing. The government also
7 agrees to dismiss the indictment with respect to this defendant
8 in Case No. 02-80086-CR-HURLEY.

9 NATURE OF THE OFFENSE

10 3. In order for defendant to be guilty of Count I of the
11 indictment under Title 18, United States Code, Sections 371, 1343
12 and 1346 and Title 15, United States Code, Sections 78j(b) and
13 78ff, which charges a conspiracy to commit wire and securities
14 fraud, the following must be true:

15 a. Defendant (1) knowingly conspired with two or more
16 persons; (2) to knowingly and willfully devise a scheme and
17 artifice to defraud and deprive others of the intangible right of
18 honest services; and (3) to obtain money and property by means of
19 materially false and fraudulent pretenses, representations and
20 promises; and (4) for the purpose of executing such scheme and
21 artifice to defraud to transmit and cause to be transmitted, by
22 means of wire communications interstate and foreign commerce,
23 certain writings, signs, signals pictures and sounds

24 b. defendant became a member of the conspiracy
25 knowing of at least one of its objects and intending to help
26 accomplish it;

27 c. One of the members of the conspiracy performed at
28 least one overt act for the purpose of carrying out the

1 conspiracy; and

2 d. Defendant and his co-conspirators directly or
3 indirectly, knowingly used and employed manipulative and
4 deceptive devices and contrivances in connection with the
5 purchase and sale of a security in contravention of rules and
6 regulations prescribed by the Securities and Exchange Commission
7 as necessary and appropriate in the public interest and for the
8 protection of investors.

9 Defendant admits that defendant is, in fact, guilty of this
10 offense as described in Count I of the indictment.

11 PENALTIES

12 4. The statutory maximum sentence that the Court can
13 impose for a conviction under Title 18, United States Code,
14 Section 371 is 5 years imprisonment, followed by a term of
15 supervised release of up to 3 years, and a fine of up to
16 \$250,000, or twice the gross gain or gross loss resulting from
17 the offense, whichever is greatest.

18 5. Defendant understands and acknowledges that, in
19 addition to any sentence imposed under paragraph 4 of this
20 agreement, a special assessment in the amount of \$100 will be
21 imposed on the defendant. The defendant agrees that any special
22 assessment imposed shall be paid at the time of sentencing.

23 SUPERVISED RELEASE

24 6. Supervised release is a period of time following
25 imprisonment during which defendant will be subject to various
26 restrictions and requirements. Defendant understands that if
27 defendant violates one or more of the conditions of any
28 supervised release imposed, defendant may be returned to prison

1 for all or part of the term of supervised release, which could
2 result in defendant serving a total term of imprisonment greater
3 than the statutory maximum stated above.

4 PROBATION/PAROLE/SUPERVISED RELEASE REVOCATION

5 7. Defendant understands that if defendant is presently on
6 probation, parole, or supervised release in another case, the
7 conviction in this case may result in revocation of such
8 probation, parole, or supervised release.

9 FACTUAL BASIS

10 8. The USAO and defendant agree and stipulate to the
11 following facts:

12 Defendant was the chairman, a director, and the chief
13 financial officer of a company known as CT Cosmetics Inc. CT
14 Cosmetics was to be traded under the symbol "CCHO."

15 Co-defendant Paul Lemmon was the managing director of
16 Voyager Group Ltd. ("Voyager"), a member of the Bermuda Stock
17 Exchange. Voyager managed a mutual fund called the Voyager
18 Select IPO Fund Ltd.

19 Beginning in or about August 2000, an agent of the Federal
20 Bureau of Investigation, acting in an undercover capacity, posed
21 as a corrupt securities trader for a fictitious stock mutual fund
22 on behalf of a number of investors who had invested approximately
23 \$800 million in the fund. The mutual fund, supposedly located in
24 England, was represented in the United States by a company called
25 Connelly and Williams, in Atlanta, GA.

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1 Two cooperating witnesses posed as corrupt stock promoters
2 and consultants who presented prospective stock deals to the
3 undercover agent's mutual fund.

4 On or about September 18, 2000, defendant represented to the
5 cooperating witnesses and the undercover agent that Voyager
6 Securities Initial Public Offering Fund would "purchase" three
7 million shares of CT Cosmetics from Voyager for \$1.00 per share,
8 and resell those shares to the undercover agent's mutual fund at
9 a profit. Defendant agreed to pay the undercover agent and the
10 cooperating witnesses 50% of the total sales price for inducing
11 the agent's mutual fund to purchase the shares. The defendant
12 understood that said fee or "kickback" could not be disclosed to
13 the mutual fund.

14 In a "test transaction," the agent's fictitious mutual fund
15 purchased \$25,000 of CT Cosmetics stock. Of this sum, defendants
16 returned \$20,000 to the undercover agent ostensibly to pay off
17 the "due diligence" officers of Connelly and Williams to put the
18 company "on the books" of the mutual fund.

19 However, as a condition of the sale of three million shares,
20 the undercover agent informed defendant that CT Cosmetics had to
21 be registered with the Securities and Exchange Commission as a
22 publicly traded company. CT Cosmetics did not meet the
23 requirements for registration and thus it was impossible for CT
24 Cosmetics to become a publicly traded company. Accordingly, it
25 was impossible to consummate the contemplated sale of three
26 million shares of CT Cosmetics to the agent's fictitious mutual
27 fund.

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WAIVER OF CONSTITUTIONAL RIGHTS

9. By pleading guilty, defendant gives up the following rights:

a. The right to persist in a plea of not guilty.

b. The right to a speedy and public trial by jury.

c. The right to the assistance of counsel at trial, including, if defendant could not afford an attorney, the right to have the Court appoint one for defendant.

d. The right to be presumed innocent and to have the burden of proof placed on the government to prove defendant guilty beyond a reasonable doubt.

e. The right to confront and cross-examine witnesses against defendant.

f. The right, if defendant wished, to testify on defendant's own behalf and present evidence in opposition to the charge, including the right to call witnesses and to subpoena those witnesses to testify.

g. The right not to be compelled to testify, and, if defendant chose not to testify or present evidence, to have that choice not be used against defendant.

By pleading guilty, defendant also gives up any and all rights to pursue any affirmative defenses, Fourth Amendment or Fifth Amendment claims, and other pretrial motions that have been filed or could be filed.

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SENTENCING FACTORS

10. Defendant understands that the Court is required to consider and apply the United States Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines") but may depart from the Sentencing Guidelines under some circumstances. Defendant and the USAO agree and stipulate that:

a. Sentencing Guidelines § 2F1.1 of the 1998 Sentencing Guidelines manual shall apply to determine the offense level for defendant's conviction under the single count of the Indictment.

b. The United States and defendant agree to recommend to the Court that the loss amount under § 2F1.1 of the Sentencing Guidelines (1998 version) was more than \$20,000 but less than \$40,000.

11. Defendant and the USAO agree and stipulate that the offense level for defendant's conviction under the single count of the information shall be determined as follows:

Base Offense Level	6	U.S.S.G. § 2F1.1
Specific Offense Characteristics		
Loss Exceeding \$20,000 But Less Than \$40,000	+4	U.S.S.G. § 2F1.1(b) (1) (N)
More than Minimal Planning	+2	U.S.S.G. § 2F1.1(b) (2)
Adjustments		
Acceptance Of Responsibility	-2	U.S.S.G. § 3E1.1
<hr/>		
Total Offense Level	10	

1 The government will recommend a two-level reduction in the
2 applicable sentencing guideline offense level pursuant to
3 U.S.S.G. § 3E1.1 only if defendant demonstrates an acceptance of
4 responsibility up to and including the time of sentencing.

5 12. Defendant and the USAO each reserve the right to oppose
6 any departure sought by the other party.

7 13. The parties agree that no specific offense
8 characteristics or adjustments apply other than those
9 specifically enumerated in paragraph 11 above, and the parties
10 agree not to argue or suggest that any specific offense
11 characteristics or adjustments of any kind, other than those
12 specifically enumerated in paragraph 11, should be imposed.
13 Notwithstanding the foregoing sentence, the USAO reserves the
14 right to seek an upward adjustment based on obstruction of
15 justice under U.S.S.G. § 3C1.1, if defendant commits an act after
16 signing this agreement but prior to sentencing, or the USAO
17 discovers a previously undiscovered act committed by defendant
18 prior to signing this agreement, which act, in the judgment of
19 the USAO, constitutes obstruction of justice within the meaning
20 of U.S.S.G. § 3C1.1.

21 14. There is no agreement as to defendant's criminal
22 history or criminal history category.

23 15. The stipulations in this agreement do not bind either
24 the United States Probation office or the Court. The Court will
25 determine the facts and calculations relevant to sentencing.
26 Both defendant and the USAO are free to: (a) supplement the
27 facts stipulated to in this agreement by supplying relevant
28 information to the United States Probation Office and the Court,

1 (b) correct any and all factual misstatements relating to the
2 calculation of the sentence, and (c) argue on appeal and
3 collateral review that the Court's sentencing calculations are
4 not error, although each party agrees to maintain its view that
5 the calculations in paragraphs 10 and 11 are consistent with the
6 facts of this case.

7 DEFENDANT'S OBLIGATIONS

8 16. Defendant agrees:

- 9 a. To plead guilty as set forth in this agreement.
10 b. To abide by all sentencing stipulations contained
11 in this agreement.
12 c. To (i) appear as ordered for all court
13 appearances, (ii) surrender as ordered for service of sentence,
14 (iii) obey all conditions of any bond, and (iv) obey any other
15 ongoing court order in this matter.
16 d. Not to commit any crime.
17 e. To be truthful at all times with the United States
18 Pretrial Services Office, the United States Probation Office, and
19 the Court.
20 f. To pay the applicable special assessment at or
21 before the time of sentencing unless defendant lacks the ability
22 to pay.

23 THE USAO'S OBLIGATIONS

24 17. If defendant complies fully with all defendant's
25 obligations under this agreement, the USAO agrees:

- 26 a. To abide by all sentencing stipulations contained
27 in this agreement.
28 b. The United States agrees that it will recommend at

1 sentencing that the Court reduce by two levels the sentencing
2 guideline level applicable to the defendant's offense, pursuant
3 to Section 3E1.1 of the Sentencing Guidelines, based upon the
4 defendant's recognition and affirmative and timely acceptance of
5 personal responsibility. The United States further agrees to
6 recommend that the defendant be sentenced at the low end of the
7 applicable guideline range. However, the United States will not
8 be required to make these sentencing recommendations if the
9 defendant: (1) fails or refuses to make full, accurate and
10 complete disclosure to the probation office of the circumstances
11 surrounding the relevant offense conduct; (2) is found to have
12 misrepresented facts to the government prior to sentencing; or
13 (3) commits any misconduct after entering into this plea
14 agreement, including but not limited to committing a state or
15 federal offense, violating any term of release or of this plea
16 agreement, or making false statements or misrepresentations to
17 any governmental entity or official.

18 c. At the time of sentencing, to dismiss Count II of
19 the indictment with respect to this defendant.

20 d. At the time of sentencing, to dismiss the
21 indictment with respect to this defendant in Case No. 02-80086-
22 CR-HURLEY.

23 BREACH OF AGREEMENT

24 18. If defendant, at any time between the execution of this
25 agreement and the later of (a) defendant's sentencing on a non-
26 custodial sentence, or (b) defendant's surrender for service of a
27 custodial sentence, violates or fails to perform any of
28 defendant's obligations under this agreement ("a breach"), the

1 USAO may declare this agreement breached. If the USAO declares
2 the agreement breached, and the Court finds such a breach to have
3 occurred, defendant will not be able to withdraw defendant's
4 guilty plea, and the USAO will be relieved of all its obligations
5 under this agreement. In particular, the USAO will no longer be
6 bound by any agreements concerning sentencing and will be free to
7 seek any sentence up to the statutory maximum for the crime to
8 which defendant has pleaded guilty.

9 LIMITED MUTUAL WAIVER OF APPEAL AND COLLATERAL ATTACK

10 19. Defendant gives up the right to appeal any sentence
11 imposed by the Court, including any order of restitution, and the
12 manner in which the sentence is determined, provided that (a) the
13 sentence is within the statutory maximum specified above, (b) the
14 Court does not depart upward in offense level or criminal history
15 category, and (c) the Court determines that the total offense
16 level is 10 or below and imposes a sentence within the range
17 corresponding to the determined total offense level. Defendant
18 also gives up any right to bring a post-conviction collateral
19 attack on the conviction or sentence, including any order of
20 restitution, except a post-conviction collateral attack based on
21 a claim of ineffective assistance of counsel, a claim of newly
22 discovered evidence, or an explicitly retroactive change in the
23 applicable Sentencing Guidelines, sentencing statutes, or statute
24 of conviction.

25 20. The USAO gives up its right to appeal the Court's
26 Sentencing Guidelines calculations, provided that (a) the Court
27 does not depart downward in offense level or criminal history

28 ///

1 category, and (b) the Court determines that the total offense
2 level is 10 or above.

3 SCOPE OF AGREEMENT

4 21. The Court is not a party to this agreement and need not
5 accept any of the USAO's sentencing recommendations or the
6 parties' stipulations. Even if the Court ignores any sentencing
7 recommendation, finds facts or reaches conclusions different from
8 any stipulation, and/or imposes any sentence up to the maximum
9 established by statute, defendant cannot, for that reason,
10 withdraw defendant's guilty plea, and defendant will remain bound
11 to fulfill all defendant's obligations under this agreement. No
12 one -- not the prosecutor, defendant's attorney, or the Court --
13 can make a binding prediction or promise regarding the sentence
14 defendant will receive, except that it will be within the
15 statutory maximum.

16 22. This agreement applies only to crimes committed by
17 defendant, has no effect on any proceedings against defendant not
18 expressly mentioned herein, and shall not preclude any past,
19 present, or future forfeiture actions.

20 NO ADDITIONAL AGREEMENTS

21 23. Except as set forth herein, there are no promises,
22 understandings, or agreements between the USAO and defendant or
23 defendant's counsel. Nor may any additional promise,

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1 understanding, agreement, or condition be entered into unless in
2 a writing signed by all parties or on the record in court.

3 This agreement is effective upon signature by defendant and
4 an Assistant United States Attorney.

5
6 AGREED AND ACCEPTED

7 UNITED STATES ATTORNEY'S OFFICE
8 FOR THE SOUTHERN DISTRICT OF FLORIDA

9 MARCOS DANIEL JIMENEZ
10 United States Attorney

11 _____
12 ROGER H. STEFIN
13 Assistant United States Attorney

Date

14 UNITED STATES ATTORNEY'S OFFICE
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA


16 DEBRA W. YANG
17 United States Attorney

18 _____
19 JEFFREY A. BACKHUS
20 Assistant United States Attorney

Date

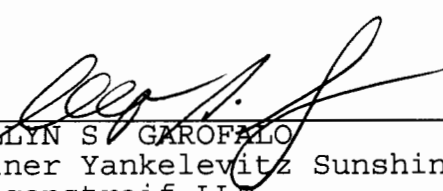
21 I have read this agreement and carefully discussed every
22 part of it with my attorney. I understand the terms of this
23 agreement, and I voluntarily agree to those terms. Furthermore,
24 I sign this agreement under penalty of perjury, and thereby state
25 that all facts contained in this agreement, including the facts
26 set forth in paragraphs 8 (Factual Basis) and 10 and 11
27 (Sentencing Factors), are true and correct. My attorney has
28 advised me of my rights, of possible defenses, of the Sentencing

1 Guidelines provisions, and of the consequences of entering into
2 this agreement. No promises or inducements have been made to me
3 other than those contained in this agreement. No one has
4 threatened or forced me in any way to enter into this agreement.
5 Finally, I am satisfied with the representation of my
6 attorney in this matter.

7
8 
9 ANDREW K. PROCTOR
Defendant

5/16/04
Date

10
11 I am Andrew K. Proctor's attorney. I have carefully
12 discussed every part of this agreement with my client. Further,
13 I have fully advised my client of his rights, of possible
14 defenses, of the Sentencing Guidelines provisions, and of the
15 consequences of entering into this agreement. To my knowledge,
16 my client's decision to enter into this agreement is an informed
17 and voluntary one.

18
19 
20 ELLYN S. GAROFALO
21 Liner Yankellevitz Sunshine &
22 Regenstreif LLP
23 Attorneys for Defendant
24 Andrew K. Proctor
25
26
27
28

5/14/04
Date

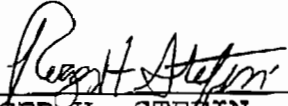
1 understanding, agreement, or condition be entered into unless in
2 a writing signed by all parties or on the record in court.

3 This agreement is effective upon signature by defendant and
4 an Assistant United States Attorney.

5
6 AGREED AND ACCEPTED

7 UNITED STATES ATTORNEY'S OFFICE
8 FOR THE SOUTHERN DISTRICT OF FLORIDA

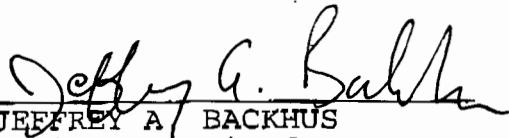
9 MARCOS DANIEL JIMENEZ
United States Attorney

10 
11 ROGER H. STEPIN
12 Assistant United States Attorney

4/19/04
Date

13 UNITED STATES ATTORNEY'S OFFICE
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA

15 DEBRA W. YANG
United States Attorney

16
17 
18 JEFFREY A. BACKHUS
19 Assistant United States Attorney

7/15/04
Date

20 I have read this agreement and carefully discussed every
21 part of it with my attorney. I understand the terms of this
22 agreement, and I voluntarily agree to those terms. Furthermore,
23 I sign this agreement under penalty of perjury, and thereby state
24 that all facts contained in this agreement, including the facts
25 set forth in paragraphs 8 (Factual Basis) and 10 and 11
26 (Sentencing Factors), are true and correct. My attorney has
27 advised me of my rights, of possible defenses, of the Sentencing
28